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Let's Start Election Reform Now

From their vast knowledge of history, the American Founding Fathers knew that unlimited political power cannot safely be trusted to *anyone*—not to appointed officials of government, not to elected representatives of the people, not to the people themselves. Hence, they devised a system to control political power by dispersing and balancing it so that too much power could not be concentrated in any one place.

The power of large states was balanced against that of small ones. Some power was taken from states and given to the federal government, and state governments were given some control over federal power.

The federal government was divided into three branches, each with a check on the power of the others; but only one-half of one of the three branches was answerable directly to the people.

State legislatures were given power to choose U.S. presidential electors and U. S. Senators. The President and Senators were given power to choose members of the judicial branch of the federal government. Only the House of Representatives, elected by the people, was to be directly answerable to the people. The people's control over the other two-and-one-half branches of the federal government was to be indirect, through their state legislatures.

By thus balancing federal power against state power, and dividing federal power into three branches, each acting as a counterweight upon the others, the Constitution created a federal system in which the people, though retaining ultimate political power over all agents and agencies of government, were themselves protected from demagoguery, mob psychology, corruption, and fraud, which are fatal weaknesses of direct popular government.

The perfection of our federal system was seriously impaired when the 17th Amendment (adopted in 1913) provided for direct popular elections of U.S. Senators. It has also been impaired by the present

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method of electing Presidents and Vice Presidents. The method evolved illegally, because state legislators became subservient to political parties, and surrendered to those parties an important responsibility which the Constitution assigns to state legislatures.

One of the knottiest problems solved by the American Founding Fathers when writing our Constitution was that of balancing representation. If small, thinly populated states were given equal representation (in the federal government) with populous states, a small minority of people could dominate a huge majority. On the other hand, if states were given representation solely on the basis of population, small states would have practically no voice.

Framers of our Constitution devised a magnificent means of balancing the power of big and small states—keeping large states from politically swallowing up small states, while preventing minority populations in small states from dominating majority populations in large ones. All states, regardless of size, have equal representation in the Senate. In the House, their representation is based on size of population. This same balance was prescribed for electing Presidents. All states have two electoral votes for President to match their representation in the Senate—plus enough electoral votes to match their representation in the House.

In all, the 50 states now have 100 Senators and 435 Representatives in Congress. Hence, they have 535 electoral votes for President and Vice President. The 23rd Amendment (adopted in 1961) gives the District of Columbia three electoral votes —making the total electoral votes 538. To win an election, a presidential candidate must receive a majority (270) of electoral votes.

The Constitution requires state legislatures to *appoint* presidential electors. The first seven Presidents were elected in compliance with this requirement.

By the time Andrew Jackson ran for his second term (1832), political parties had become so strong, and partisan feeling so bitter, that political parties, which controlled state legislators, began usurping the legislators' duty to appoint presidential electors.

As the system now works, each political party chooses its own presidential and vice presidential candidates and its own electors.

In some states, candidates *and* electors of all parties are listed on ballots. Most states, however, have too many electors to list; so, just the names of presidential and vice presidential candidates are on ballots.

In November, every leap year, voters go to the polls, most thinking they are voting for presidential and vice presidential candidates; but they are not. They cannot. Voters vote only for presidential electors, whose names are often not even on the ballot. Hence, "presidential election day" is not the day when a President is elected. It is a day when presidential electors are elected. The presidential candidate whose electors get a plurality (highest number) of popular votes cast in a state on "presidential election day" will later get all of that state's electoral votes.

Later is mid-December, when elected electors meet in their respective states and cast their votes for their party's candidates. Early in January, the electoral votes from all 50 states and the District of Columbia are opened and counted at a joint session of Congress. This constitutes the official election of the President and Vice President.

As created by the Constitution, the electoral college system is a superb means of electing the two highest officials of the federal government. It gave the people rather effective, *indirect* control (through their state legislatures) of presidential elections, the framers knowing that *direct* control by the people is a practical impossibility.

As it is used (or abused), however, the electoral college system is a travesty on the elective process. A candidate who gets a *distinct minority* of popular votes can now receive an *overwhelming majority* of electoral votes, because of the winner-

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take-all practice of giving all of a state's electoral votes to the man who gets a mere plurality of the popular vote. Hence, political parties tend to cater to organized voting blocs in key cities of key states.

Direct, popular election of the President would produce an even worse condition: then, presidential candidates would concentrate almost exclusively on the mass of votes piled up in a few large cities, virtually disenfranchising, for presidential elections, voters in rural or thinly populated areas.

An ideal solution would be a return to the brilliant, constitutional system of electing Presidents; but it is obvious that the people could not be persuaded to "give up their privilege of voting for a President." There is still, however, an available, constitutional solution, which can be achieved by *state* action.

Each state should require the appointment of one slate of presidential electors, by the state legislature, as the Constitution specifies. One elector should be selected for each congressional district and required by law to cast the one electoral vote of that district for the presidential candidate who receives a plurality of the popular vote in the *district*. Two at-large electors should be appointed in each state, to correspond with the two U. S. Senators. These two electors should be required by law to cast their two votes for the presidential candidate who receives a plurality of the popular vote in the *state*.

This would eliminate the winner-take-all practice, which is the worst feature of the present system; and it would preserve the geographical distribution of political power which the Constitution prescribed. In electing a President, small or thinly populated states would have strength equal to their strength in electing members of the national Congress, which is what the Constitution intended.

For years, Senator Karl Mundt (South Dakota Republican) has sponsored a constitutional amendment to accomplish what would be accomplished, *without* a constitutional amendment, by the state legislation I recommend. An additional virtue of the plan I suggest is that it would restore to state legislatures some of the importance and dignity they originally had.

Senator Mundt's proposal—supported by conservatives, moderates, and even many liberals in Congress—has broader approval than any other effort ever made to change our presidential-election system by constitutional amendment. Yet, there is little likelihood that Congress will ever approve the Mundt amendment. More than 200 efforts to change the system by constitutional amendment have failed.

So, instead of continuing to look to *Washington* for action, concerned Americans in every state should start *now* informing and persuading their *state* governments; and they should keep the pressure on to assure that state election laws are changed before the next presidential election year.

To repeat: *we need in each state a law requiring the state legislature to appoint a slate of presidential electors, one elector for each congressional district, two at-large electors for the entire state—each district elector bound to give his one vote to the presidential candidate receiving a plurality of the popular vote in his district, the two at-large electors bound to give their two votes to the candidate receiving a plurality of the popular vote in the state.*

Present this idea to every organization you belong to, including political organizations you may have worked with during the campaigns this year. Remember, this is not a partisan proposal. It is not even "controversial" in the sense that conservatives and liberals automatically take opposite sides. It is a proposal for establishing a presidential-election system that most Americans—liberals and conservatives; Democrats, Republicans, and American Independents—will approve, once they understand it.

Working on a project to get state legislatures to act on this proposal should be especially beneficial to the new American Independent Party. It is a cause important enough to hold the organization together, and to give party workers something constructive to do, putting them in contact

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with other political leaders in the precincts, cities, counties, and states.

This is also a project suitable for, and worthy of, the support of other kinds of organizations: civic clubs, study and discussion groups, church groups, patriotic societies, historical societies, veterans organizations, business associations, labor unions.

Write to your U. S. Representative and to your two U. S. Senators to see whether they approve this plan. If they do, ask them to support it publicly.

Write your state representatives and senators (or talk with them in person), and enlist their support.

Try to get your local newspapers interested. Write letters to the editors, explaining and supporting presidential-election reform at the *state* level.

Present this idea to radio and television broadcasters and to public speakers who you think would be interested in supporting it.

In every presidential election year, interest in changing our presidential-election system is intense; but nothing is ever done, because interest subsides after the election.

We should not let interest subside this year. We can get the job done before 1972, if we will begin now and keep on keeping on until it is accomplished.

THE ROAD AHEAD

Now that the elections are over, conservatives must not relax and lose the momentum they gathered during the campaign. They must make their voices heard on all major issues during 1969. The new President and Congress must *know* there is a massive, insistent demand for restoration of constitutional government. This will require a tremendous job of public education which is difficult to accomplish, because there are very few publications that report on major issues factually, from the viewpoint of constitutional conservatism. *The Dan Smoot Report* is one of the few.

This year, through your Christmas giving, introduce your friends to the governmental principles that are the bedrock of our national greatness: give them subscriptions to *The Dan Smoot Report*. Exposure to the old, yet always new, American idea of limited constitutional government is especially exciting to young people.

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